

Minute f

4/97)

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	98 CR 434	DATE	11/12/2003
CASE TITLE	USA vs. Michael Black		

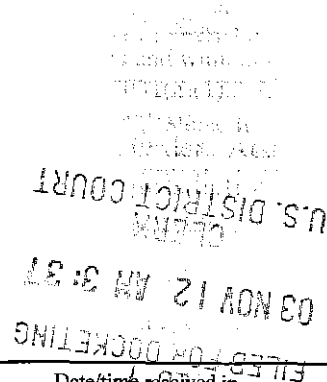
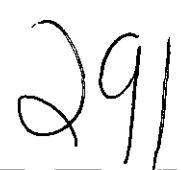
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_, Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Accordingly this Court must, and it does hereby, deny Black's motion for lack of subject matter jurisdiction. If he is to obtain any relief, he must look to the Bureau of Prisons for that purpose.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		322 hsh number of notices NOV 15 2003 date docketed [Signature] docketing deputy initials 11/12/2003 date mailed notice SN mailing deputy initials	Document Number
<input type="checkbox"/>	No notices required.			
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.			
<input type="checkbox"/>	Notified counsel by telephone.			
<input type="checkbox"/>	Docketing to mail notices.			
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate judge.			
SN	courtroom deputy's initials	Date/time received in central Clerk's Office		

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 98 CR 434  
 )  
 MICHAEL BLACK, )  
 )  
 Defendant. )

DOCKETED  
NOV 13 2003

## MEMORANDUM ORDER

Michael Black ("Black"), setting out a series of serious physical problems that he has encountered during his incarceration, has just submitted a self-prepared motion for the reduction of the 168-month sentence imposed by this Court well over four years ago (on June 6, 1999). But the difficulty with Black's motion is that this Court is simply without power--without jurisdiction--to grant him any relief at this point.

Fed. R. Crim. P. ("Rule") 35 provides the narrowest of windows for action by a district court once sentence has been pronounced: Rule 35(a) grants just seven days after sentencing to correct a sentence that involves a "clear error," while Rule 35(b) allows any later reduction of a sentence only if the government files a motion under the conditions set out there. Thus the Rule gives Black no comfort.

Perhaps realizing that, Black begins his current motion by pointing to a statutory provision:

This Court has jurisdiction to reduce defendant's sentence pursuant to Title 18 United States Code

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§3582(c)(2).

But that simply misreads the cited statute, which by its terms applies only where the sentencing range for a defendant's offense has later been lowered by the Sentencing Commission--as United States v. Early, 27 F.3d 140, 142 (5<sup>th</sup> Cir. 1994) (per curiam) has said:

Finally, Early's motion cannot be considered one pursuant to 18 U.S.C. §3582(c)(2), as that particular subsection of the statute discusses the possible modification of a term of imprisonment when the term of imprisonment has been based on a sentencing guidelines range that has subsequently been lowered by the Sentencing Commission.

And the companion to that provision, 18 U.S.C. §3582(c)(1), is likewise a narrow avenue of relief: It permits the post-sentencing reduction of a term of imprisonment only upon motion of the Director of the Bureau of Prisons or under Rule 35 (already discussed here). So no statute allows for this Court's consideration of Black's motion either.

Accordingly this Court must, and it does hereby, deny Black's motion for lack of subject matter jurisdiction. If he is to obtain any relief, he must look to the Bureau of Prisons for that purpose.



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Milton I. Shadur  
Senior United States District Judge

Date: November 12, 2003